IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL.

WRIT PETITION NO. 35 OF 2004.

M/s Vigyan Chemicals Industries …. Petitioner.

Versus

M/S Indo Paints & Chemicals & others …. Respondents

HON'BLE RAJESH TANDON J.

By the present writ petition the petitioner has challenged the order dated 24.03.2004 as well as the order dated 17.08.2001 by which the application under Order IX rule 13 CPC has been allowed directing the judgment-debtor to give the security in terms of the decretal amount. The said order was challenged before the revision and the revision was dismissed. Counsel for the petitioner has challenged both the orders that the Security Bond has been given in terms of the affidavit only and, therefore, the order of restoration of the suit has not been complied with in terms of the order.

A perusal of the order shows that direction was given for the security of the decretal amount. Taking into consideration the orders passed by the two courts below, in my opinion the affidavit filed by the respondent is sufficient as it will form in the nature of undertaking.

In view of the above, the orders require no interference under Article 226 of the Constitution of India.

Subject to the aforesaid observations, the writ petition is dismissed. No order as to costs. he suit may be decided within a period of four months from the production of certified copy of the order.

Dated: August 17, 2004.

S.S.Negi. **(Hon'ble Rajesh Tandon J)**